



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2338

Introduced 1/28/2016, by Sen. Dale A. Righter

SYNOPSIS AS INTRODUCED:

New Act

305 ILCS 5/5A-10

from Ch. 23, par. 5A-10

30 ILCS 805/8.40 new

5 ILCS 100/5-45

from Ch. 127, par. 1005-45

Creates the Unbalanced Budget Response Act. Provides authority and procedures for the Governor to transfer previously appropriated funds between programs, purposes, accounts, agencies, or appropriation line items, and to transfer balances between special funds in the State treasury and the General Revenue Fund. Describes the agencies and programs subject to this authority. Provides that designated agencies may adopt emergency rules to carry out the purposes of the Act. Defines terms. Provides that the Act is repealed on July 1, 2017. Amends the Illinois Administrative Procedure Act to make conforming changes. Amends the Illinois Public Aid Code. Adds actions taken under the Unbalanced Budget Response Act to a Section relating to applicability. Amends the State Mandates Act to require implementation without reimbursement by the State. Effective immediately.

SRS099 00007 ALW 20008 b

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Unbalanced Budget Response Act.

6 Section 5. Legislative intent. The State is currently
7 confronted with an unprecedented fiscal crisis. Although the
8 Constitution of the State of Illinois requires that spending
9 not exceed available revenues, the State is currently spending
10 in excess of estimated revenues during fiscal year 2016, which
11 is significantly increasing the backlog of unpaid bills.
12 Without substantial correction action taken by the General
13 Assembly, the fiscal year 2017 budget also will be unbalanced.
14 This Act is to be liberally construed and interpreted in a
15 manner that allows the State to address the fiscal crisis for
16 fiscal years 2016 and 2017.

17 Section 10. Definitions. As used in this Act, "agency"
18 includes all officers, boards, commissions, departments, and
19 agencies of the executive branch of the State government
20 created by the Constitution, statute, or Executive Order,
21 including, but not limited to, public institutions of higher
22 education (as defined in the Board of Higher Education Act).

1 "Agency" shall not include the State Board of Education, the
2 State Board of Elections, the Attorney General, the Secretary
3 of State, the Comptroller, or the Treasurer.

4 Section 15. Designation of contingency reserves. For the
5 purposes of balancing the State's budget, the Governor may
6 designate, by written notice to the Comptroller, a contingency
7 reserve from the amounts appropriated from general funds held
8 by the Treasurer for State's fiscal years 2016 and 2017 to any
9 agency; provided, however, that the Governor may not designate
10 amounts to be set aside as a contingency reserve from amounts
11 that (i) have been appropriated for payment of debt service or
12 (ii) have been set aside by the State retirement systems
13 governed by Articles 2, 14, 15, 16, or 18 of the Illinois
14 Pension Code to pay benefits and administrative costs and as
15 invested assets.

16 Section 20. Fund transfers. Notwithstanding any other
17 provision of law, for the State's fiscal years 2016 and 2017:

18 (a) at the direction of and upon notification from the
19 Governor, the Comptroller shall direct and the Treasurer
20 shall transfer an amount specified by the Governor from any
21 fund held by the Treasurer to any general fund held by the
22 Treasurer; provided, however, that no transfer may be made
23 out of (i) any federal trust fund; (ii) any amount set
24 aside for payment of debt service; (iii) any amount set

1 aside for the State retirement systems governed by Articles
2 2, 14, 15, 16, or 18 of the Illinois Pension Code; (iv) any
3 fund designated for use exclusively by the legislative
4 branch or the judicial branch, or any official or agency of
5 the foregoing branches, or by the State Board of Elections
6 or the State Board of Education; (v) any State fund
7 designated for use exclusively by the Attorney General, the
8 Secretary of State, the Comptroller, or the Treasurer
9 without the written authorization from such official; or
10 (vi) the Road Fund; and

11 (b) the Governor, by written notice to the Comptroller,
12 may modify statutory transfers out of general funds held by
13 the Treasurer, and the Comptroller and the Treasurer shall
14 give effect to any such modification; provided, however,
15 that no modification may be made to statutory transfers out
16 of a general fund (i) for payment of debt service, (ii)
17 which are set aside for the State retirement systems
18 governed by Articles 2, 14, 15, 16, or 18 of the Illinois
19 Pension Code, (iii) to special funds held by the Treasurer
20 designated for use exclusively by, the legislative branch,
21 the judicial branch, or any official or agency of the
22 foregoing branches, (iv) special funds held by the
23 Treasurer designated for use exclusively by the State Board
24 of Elections or the State Board of Education, or (v) to
25 special funds held by the Treasurer designated for use
26 exclusively by the Attorney General, the Secretary of

1 State, the Comptroller, or the Treasurer without the
2 written authorization from such official.

3 No transfer made pursuant to this Section may reduce the
4 cumulative balance of all of the funds held by the Treasurer to
5 an amount less than the total debt service payable during the
6 12 months immediately following the date of the transfer on any
7 bonded indebtedness of the State and any certificates issued
8 under the Short Term Borrowing Act. When any of the funds from
9 which moneys have been transferred under this Section have
10 insufficient cash from which the Comptroller may make
11 expenditures properly supported by appropriations from the
12 fund, then the State Treasurer and State Comptroller shall
13 transfer from the General Revenue Fund to the fund such amount
14 as is immediately necessary to satisfy outstanding expenditure
15 obligations on a timely basis, subject to the provisions of the
16 State Prompt Payment Act. If the Director of the Governor's
17 Office of Management and Budget determines that any transfer to
18 the general funds from any of the funds from which moneys have
19 been transferred under this Section either (i) jeopardizes
20 federal funding based on a written communication from a federal
21 official or (ii) violates an order of a court of competent
22 jurisdiction, then the Director may order the State Treasurer
23 and State Comptroller, in writing, to transfer from the General
24 Revenue Fund to that fund all or part of the amounts
25 transferred from that fund under this Section.

1 Section 25. Payment rate modifications. Notwithstanding
2 any other provision of law, for the State's fiscal years 2016
3 and 2017, the Governor may modify any rate for payments made by
4 an agency to providers of services.

5 Section 30. Limitations; notice.

6 (a) The sum of contingency reserves designated pursuant to
7 Section 15, transfers made pursuant to subsection (a) of
8 Section 20, modifications to transfers pursuant to subsection
9 (b) of Section 20, and savings to be realized by the State due
10 to payment rate modifications pursuant to Section 25, shall not
11 exceed for each fiscal year the amount by which total State
12 spending for that fiscal year is estimated to exceed available
13 revenues for that fiscal year, as determined by the Governor's
14 Office of Management and Budget.

15 (b) The Governor shall provide notice of each contingency
16 reserve designated pursuant to Section 15, transfer made
17 pursuant to subsection (a) of Section 20, modification to
18 transfers pursuant to subsection (b) of Section 20, and payment
19 rate modification pursuant to Section 25 within 10 business
20 days to the Clerk of the House of Representatives, the
21 Secretary of the Senate, the Commission on Government
22 Forecasting and Accountability, the State Comptroller, and the
23 State Treasurer. A copy of such notices, or a cumulative
24 summary of the actions taken, shall be posted on a public
25 website maintained by the State.

1 Section 40. Emergency rules. Notwithstanding any other
2 provision of law, the Department on Aging, the Department of
3 Children and Family Services, the Department of Healthcare and
4 Family Services, the Department of Human Services, and the
5 Department of Public Health may each adopt emergency rules
6 pursuant to subsection (v) of Section 5-45 of the Illinois
7 Administrative Procedure Act to limit, reduce, or adjust
8 services, payment rates, expenditures, transfers of funds, and
9 eligibility criteria, to the extent permitted by federal law,
10 as necessary to implement (i) the State's fiscal years 2016 and
11 2017 budgets, (ii) any contingency reserves designated by the
12 Governor pursuant to Section 15, (iii) any transfer of balances
13 or modification of statutory transfers pursuant to Section 20
14 affecting State funds designated for use by the agency, or (iv)
15 modifications made by the Governor pursuant to Section 25. The
16 effectiveness of any such emergency rule, and any such
17 adjustment, reduction, or limitation made pursuant thereto,
18 shall expire on July 1, 2017. Nothing in this Section shall
19 require rulemaking if the limitation, reduction, or adjustment
20 would otherwise be within the authority of the agency without
21 rulemaking.

22 Section 45. Repealer. This Act is repealed on July 1, 2017.

23 Section 105. The Illinois Administrative Procedure Act is

1 amended by changing Section 5-45 as follows:

2 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

3 Sec. 5-45. Emergency rulemaking.

4 (a) "Emergency" means the existence of any situation that
5 any agency finds reasonably constitutes a threat to the public
6 interest, safety, or welfare.

7 (b) If any agency finds that an emergency exists that
8 requires adoption of a rule upon fewer days than is required by
9 Section 5-40 and states in writing its reasons for that
10 finding, the agency may adopt an emergency rule without prior
11 notice or hearing upon filing a notice of emergency rulemaking
12 with the Secretary of State under Section 5-70. The notice
13 shall include the text of the emergency rule and shall be
14 published in the Illinois Register. Consent orders or other
15 court orders adopting settlements negotiated by an agency may
16 be adopted under this Section. Subject to applicable
17 constitutional or statutory provisions, an emergency rule
18 becomes effective immediately upon filing under Section 5-65 or
19 at a stated date less than 10 days thereafter. The agency's
20 finding and a statement of the specific reasons for the finding
21 shall be filed with the rule. The agency shall take reasonable
22 and appropriate measures to make emergency rules known to the
23 persons who may be affected by them.

24 (c) An emergency rule may be effective for a period of not
25 longer than 150 days, but the agency's authority to adopt an

1 identical rule under Section 5-40 is not precluded. No
2 emergency rule may be adopted more than once in any 24 month
3 period, except that this limitation on the number of emergency
4 rules that may be adopted in a 24 month period does not apply
5 to (i) emergency rules that make additions to and deletions
6 from the Drug Manual under Section 5-5.16 of the Illinois
7 Public Aid Code or the generic drug formulary under Section
8 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
9 emergency rules adopted by the Pollution Control Board before
10 July 1, 1997 to implement portions of the Livestock Management
11 Facilities Act, (iii) emergency rules adopted by the Illinois
12 Department of Public Health under subsections (a) through (i)
13 of Section 2 of the Department of Public Health Act when
14 necessary to protect the public's health, (iv) emergency rules
15 adopted pursuant to subsection (n) of this Section, (v)
16 emergency rules adopted pursuant to subsection (o) of this
17 Section, ~~or~~ (vi) emergency rules adopted pursuant to subsection
18 (c-5) of this Section, or (vii) emergency rules adopted
19 pursuant to subsection (v) of this Section. Two or more
20 emergency rules having substantially the same purpose and
21 effect shall be deemed to be a single rule for purposes of this
22 Section.

23 (c-5) To facilitate the maintenance of the program of group
24 health benefits provided to annuitants, survivors, and retired
25 employees under the State Employees Group Insurance Act of
26 1971, rules to alter the contributions to be paid by the State,

1 annuitants, survivors, retired employees, or any combination
2 of those entities, for that program of group health benefits,
3 shall be adopted as emergency rules. The adoption of those
4 rules shall be considered an emergency and necessary for the
5 public interest, safety, and welfare.

6 (d) In order to provide for the expeditious and timely
7 implementation of the State's fiscal year 1999 budget,
8 emergency rules to implement any provision of Public Act 90-587
9 or 90-588 or any other budget initiative for fiscal year 1999
10 may be adopted in accordance with this Section by the agency
11 charged with administering that provision or initiative,
12 except that the 24-month limitation on the adoption of
13 emergency rules and the provisions of Sections 5-115 and 5-125
14 do not apply to rules adopted under this subsection (d). The
15 adoption of emergency rules authorized by this subsection (d)
16 shall be deemed to be necessary for the public interest,
17 safety, and welfare.

18 (e) In order to provide for the expeditious and timely
19 implementation of the State's fiscal year 2000 budget,
20 emergency rules to implement any provision of Public Act 91-24
21 ~~this amendatory Act of the 91st General Assembly~~ or any other
22 budget initiative for fiscal year 2000 may be adopted in
23 accordance with this Section by the agency charged with
24 administering that provision or initiative, except that the
25 24-month limitation on the adoption of emergency rules and the
26 provisions of Sections 5-115 and 5-125 do not apply to rules

1 adopted under this subsection (e). The adoption of emergency
2 rules authorized by this subsection (e) shall be deemed to be
3 necessary for the public interest, safety, and welfare.

4 (f) In order to provide for the expeditious and timely
5 implementation of the State's fiscal year 2001 budget,
6 emergency rules to implement any provision of Public Act 91-712
7 ~~this amendatory Act of the 91st General Assembly~~ or any other
8 budget initiative for fiscal year 2001 may be adopted in
9 accordance with this Section by the agency charged with
10 administering that provision or initiative, except that the
11 24-month limitation on the adoption of emergency rules and the
12 provisions of Sections 5-115 and 5-125 do not apply to rules
13 adopted under this subsection (f). The adoption of emergency
14 rules authorized by this subsection (f) shall be deemed to be
15 necessary for the public interest, safety, and welfare.

16 (g) In order to provide for the expeditious and timely
17 implementation of the State's fiscal year 2002 budget,
18 emergency rules to implement any provision of Public Act 92-10
19 ~~this amendatory Act of the 92nd General Assembly~~ or any other
20 budget initiative for fiscal year 2002 may be adopted in
21 accordance with this Section by the agency charged with
22 administering that provision or initiative, except that the
23 24-month limitation on the adoption of emergency rules and the
24 provisions of Sections 5-115 and 5-125 do not apply to rules
25 adopted under this subsection (g). The adoption of emergency
26 rules authorized by this subsection (g) shall be deemed to be

1 necessary for the public interest, safety, and welfare.

2 (h) In order to provide for the expeditious and timely
3 implementation of the State's fiscal year 2003 budget,
4 emergency rules to implement any provision of Public Act 92-597
5 ~~this amendatory Act of the 92nd General Assembly~~ or any other
6 budget initiative for fiscal year 2003 may be adopted in
7 accordance with this Section by the agency charged with
8 administering that provision or initiative, except that the
9 24-month limitation on the adoption of emergency rules and the
10 provisions of Sections 5-115 and 5-125 do not apply to rules
11 adopted under this subsection (h). The adoption of emergency
12 rules authorized by this subsection (h) shall be deemed to be
13 necessary for the public interest, safety, and welfare.

14 (i) In order to provide for the expeditious and timely
15 implementation of the State's fiscal year 2004 budget,
16 emergency rules to implement any provision of Public Act 93-20
17 ~~this amendatory Act of the 93rd General Assembly~~ or any other
18 budget initiative for fiscal year 2004 may be adopted in
19 accordance with this Section by the agency charged with
20 administering that provision or initiative, except that the
21 24-month limitation on the adoption of emergency rules and the
22 provisions of Sections 5-115 and 5-125 do not apply to rules
23 adopted under this subsection (i). The adoption of emergency
24 rules authorized by this subsection (i) shall be deemed to be
25 necessary for the public interest, safety, and welfare.

26 (j) In order to provide for the expeditious and timely

1 implementation of the provisions of the State's fiscal year
2 2005 budget as provided under the Fiscal Year 2005 Budget
3 Implementation (Human Services) Act, emergency rules to
4 implement any provision of the Fiscal Year 2005 Budget
5 Implementation (Human Services) Act may be adopted in
6 accordance with this Section by the agency charged with
7 administering that provision, except that the 24-month
8 limitation on the adoption of emergency rules and the
9 provisions of Sections 5-115 and 5-125 do not apply to rules
10 adopted under this subsection (j). The Department of Public Aid
11 may also adopt rules under this subsection (j) necessary to
12 administer the Illinois Public Aid Code and the Children's
13 Health Insurance Program Act. The adoption of emergency rules
14 authorized by this subsection (j) shall be deemed to be
15 necessary for the public interest, safety, and welfare.

16 (k) In order to provide for the expeditious and timely
17 implementation of the provisions of the State's fiscal year
18 2006 budget, emergency rules to implement any provision of
19 Public Act 94-48 ~~this amendatory Act of the 94th General~~
20 ~~Assembly~~ or any other budget initiative for fiscal year 2006
21 may be adopted in accordance with this Section by the agency
22 charged with administering that provision or initiative,
23 except that the 24-month limitation on the adoption of
24 emergency rules and the provisions of Sections 5-115 and 5-125
25 do not apply to rules adopted under this subsection (k). The
26 Department of Healthcare and Family Services may also adopt

1 rules under this subsection (k) necessary to administer the
2 Illinois Public Aid Code, the Senior Citizens and Persons with
3 Disabilities Property Tax Relief Act, the Senior Citizens and
4 Disabled Persons Prescription Drug Discount Program Act (now
5 the Illinois Prescription Drug Discount Program Act), and the
6 Children's Health Insurance Program Act. The adoption of
7 emergency rules authorized by this subsection (k) shall be
8 deemed to be necessary for the public interest, safety, and
9 welfare.

10 (l) In order to provide for the expeditious and timely
11 implementation of the provisions of the State's fiscal year
12 2007 budget, the Department of Healthcare and Family Services
13 may adopt emergency rules during fiscal year 2007, including
14 rules effective July 1, 2007, in accordance with this
15 subsection to the extent necessary to administer the
16 Department's responsibilities with respect to amendments to
17 the State plans and Illinois waivers approved by the federal
18 Centers for Medicare and Medicaid Services necessitated by the
19 requirements of Title XIX and Title XXI of the federal Social
20 Security Act. The adoption of emergency rules authorized by
21 this subsection (l) shall be deemed to be necessary for the
22 public interest, safety, and welfare.

23 (m) In order to provide for the expeditious and timely
24 implementation of the provisions of the State's fiscal year
25 2008 budget, the Department of Healthcare and Family Services
26 may adopt emergency rules during fiscal year 2008, including

1 rules effective July 1, 2008, in accordance with this
2 subsection to the extent necessary to administer the
3 Department's responsibilities with respect to amendments to
4 the State plans and Illinois waivers approved by the federal
5 Centers for Medicare and Medicaid Services necessitated by the
6 requirements of Title XIX and Title XXI of the federal Social
7 Security Act. The adoption of emergency rules authorized by
8 this subsection (m) shall be deemed to be necessary for the
9 public interest, safety, and welfare.

10 (n) In order to provide for the expeditious and timely
11 implementation of the provisions of the State's fiscal year
12 2010 budget, emergency rules to implement any provision of
13 Public Act 96-45 ~~this amendatory Act of the 96th General~~
14 ~~Assembly~~ or any other budget initiative authorized by the 96th
15 General Assembly for fiscal year 2010 may be adopted in
16 accordance with this Section by the agency charged with
17 administering that provision or initiative. The adoption of
18 emergency rules authorized by this subsection (n) shall be
19 deemed to be necessary for the public interest, safety, and
20 welfare. The rulemaking authority granted in this subsection
21 (n) shall apply only to rules promulgated during Fiscal Year
22 2010.

23 (o) In order to provide for the expeditious and timely
24 implementation of the provisions of the State's fiscal year
25 2011 budget, emergency rules to implement any provision of
26 Public Act 96-958 ~~this amendatory Act of the 96th General~~

1 ~~Assembly~~ or any other budget initiative authorized by the 96th
2 General Assembly for fiscal year 2011 may be adopted in
3 accordance with this Section by the agency charged with
4 administering that provision or initiative. The adoption of
5 emergency rules authorized by this subsection (o) is deemed to
6 be necessary for the public interest, safety, and welfare. The
7 rulemaking authority granted in this subsection (o) applies
8 only to rules promulgated on or after the effective date of
9 Public Act 96-958 ~~this amendatory Act of the 96th General~~
10 ~~Assembly~~ through June 30, 2011.

11 (p) In order to provide for the expeditious and timely
12 implementation of the provisions of Public Act 97-689,
13 emergency rules to implement any provision of Public Act 97-689
14 may be adopted in accordance with this subsection (p) by the
15 agency charged with administering that provision or
16 initiative. The 150-day limitation of the effective period of
17 emergency rules does not apply to rules adopted under this
18 subsection (p), and the effective period may continue through
19 June 30, 2013. The 24-month limitation on the adoption of
20 emergency rules does not apply to rules adopted under this
21 subsection (p). The adoption of emergency rules authorized by
22 this subsection (p) is deemed to be necessary for the public
23 interest, safety, and welfare.

24 (q) In order to provide for the expeditious and timely
25 implementation of the provisions of Articles 7, 8, 9, 11, and
26 12 of Public Act 98-104 ~~this amendatory Act of the 98th General~~

1 ~~Assembly~~, emergency rules to implement any provision of
2 Articles 7, 8, 9, 11, and 12 of Public Act 98-104 ~~this~~
3 ~~amendatory Act of the 98th General Assembly~~ may be adopted in
4 accordance with this subsection (q) by the agency charged with
5 administering that provision or initiative. The 24-month
6 limitation on the adoption of emergency rules does not apply to
7 rules adopted under this subsection (q). The adoption of
8 emergency rules authorized by this subsection (q) is deemed to
9 be necessary for the public interest, safety, and welfare.

10 (r) In order to provide for the expeditious and timely
11 implementation of the provisions of Public Act 98-651 ~~this~~
12 ~~amendatory Act of the 98th General Assembly~~, emergency rules to
13 implement Public Act 98-651 ~~this amendatory Act of the 98th~~
14 ~~General Assembly~~ may be adopted in accordance with this
15 subsection (r) by the Department of Healthcare and Family
16 Services. The 24-month limitation on the adoption of emergency
17 rules does not apply to rules adopted under this subsection
18 (r). The adoption of emergency rules authorized by this
19 subsection (r) is deemed to be necessary for the public
20 interest, safety, and welfare.

21 (s) In order to provide for the expeditious and timely
22 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
23 the Illinois Public Aid Code, emergency rules to implement any
24 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
25 Public Aid Code may be adopted in accordance with this
26 subsection (s) by the Department of Healthcare and Family

1 Services. The rulemaking authority granted in this subsection
2 (s) shall apply only to those rules adopted prior to July 1,
3 2015. Notwithstanding any other provision of this Section, any
4 emergency rule adopted under this subsection (s) shall only
5 apply to payments made for State fiscal year 2015. The adoption
6 of emergency rules authorized by this subsection (s) is deemed
7 to be necessary for the public interest, safety, and welfare.

8 (t) In order to provide for the expeditious and timely
9 implementation of the provisions of Article II of Public Act
10 99-6 ~~this amendatory Act of the 99th General Assembly,~~
11 emergency rules to implement the changes made by Article II of
12 Public Act 99-6 ~~this amendatory Act of the 99th General~~
13 ~~Assembly~~ to the Emergency Telephone System Act may be adopted
14 in accordance with this subsection (t) by the Department of
15 State Police. The rulemaking authority granted in this
16 subsection (t) shall apply only to those rules adopted prior to
17 July 1, 2016. The 24-month limitation on the adoption of
18 emergency rules does not apply to rules adopted under this
19 subsection (t). The adoption of emergency rules authorized by
20 this subsection (t) is deemed to be necessary for the public
21 interest, safety, and welfare.

22 (u) ~~(t)~~ In order to provide for the expeditious and timely
23 implementation of the provisions of the Burn Victims Relief
24 Act, emergency rules to implement any provision of the Act may
25 be adopted in accordance with this subsection (u) ~~(t)~~ by the
26 Department of Insurance. The rulemaking authority granted in

1 this subsection (u) ~~(t)~~ shall apply only to those rules adopted
2 prior to December 31, 2015. The adoption of emergency rules
3 authorized by this subsection (u) ~~(t)~~ is deemed to be necessary
4 for the public interest, safety, and welfare.

5 (v) In order to provide for the expeditious and timely
6 implementation of the provisions of the State's budget for
7 fiscal years 2016 and 2017, emergency rules to implement any
8 provision of this amendatory Act of the 99th General Assembly
9 may be adopted in accordance with this Section by each agency
10 named in Section 40 of the Unbalanced Budget Response Act. The
11 adoption of emergency rules authorized by this subsection (v)
12 shall be deemed to be necessary for the public interest,
13 safety, and welfare. The rulemaking authority granted in this
14 subsection (v) shall apply only to rules adopted prior to July
15 1, 2017. Notwithstanding any other provision of this Section,
16 any emergency rule adopted pursuant to this subsection (v)
17 shall expire on July 1, 2017.

18 (Source: P.A. 98-104, eff. 7-22-13; 98-463, eff. 8-16-13;
19 98-651, eff. 6-16-14; 99-2, eff. 3-26-15; 99-6, eff. 1-1-16;
20 99-143, eff. 7-27-15; 99-455, eff. 1-1-16; revised 10-15-15.)

21 Section 110. The Illinois Public Aid Code is amended by
22 changing Section 5A-10 as follows:

23 (305 ILCS 5/5A-10) (from Ch. 23, par. 5A-10)

24 Sec. 5A-10. Applicability.

1 (a) The assessment imposed by subsection (a) of Section
2 5A-2 shall cease to be imposed and the Department's obligation
3 to make payments shall immediately cease, and any moneys
4 remaining in the Fund shall be refunded to hospital providers
5 in proportion to the amounts paid by them, if:

6 (1) The payments to hospitals required under this
7 Article are not eligible for federal matching funds under
8 Title XIX or XXI of the Social Security Act;

9 (2) For State fiscal years 2009 through 2018, the
10 Department of Healthcare and Family Services adopts any
11 administrative rule change to reduce payment rates or
12 alters any payment methodology that reduces any payment
13 rates made to operating hospitals under the approved Title
14 XIX or Title XXI State plan in effect January 1, 2008
15 except for:

16 (A) any changes for hospitals described in
17 subsection (b) of Section 5A-3;

18 (B) any rates for payments made under this Article
19 V-A;

20 (C) any changes proposed in State plan amendment
21 transmittal numbers 08-01, 08-02, 08-04, 08-06, and
22 08-07;

23 (D) in relation to any admissions on or after
24 January 1, 2011, a modification in the methodology for
25 calculating outlier payments to hospitals for
26 exceptionally costly stays, for hospitals reimbursed

1 under the diagnosis-related grouping methodology in
2 effect on July 1, 2011; provided that the Department
3 shall be limited to one such modification during the
4 36-month period after the effective date of this
5 amendatory Act of the 96th General Assembly;

6 (E) any changes affecting hospitals authorized by
7 Public Act 97-689;

8 (F) any changes authorized by Section 14-12 of this
9 Code, or for any changes authorized under Section 5A-15
10 of this Code; ~~or~~

11 (G) any changes authorized under Section 5-5b.1;
12 or -

13 (H) any changes authorized under the Unbalanced
14 Budget Response Act.

15 (b) The assessment imposed by Section 5A-2 shall not take
16 effect or shall cease to be imposed, and the Department's
17 obligation to make payments shall immediately cease, if the
18 assessment is determined to be an impermissible tax under Title
19 XIX of the Social Security Act. Moneys in the Hospital Provider
20 Fund derived from assessments imposed prior thereto shall be
21 disbursed in accordance with Section 5A-8 to the extent federal
22 financial participation is not reduced due to the
23 impermissibility of the assessments, and any remaining moneys
24 shall be refunded to hospital providers in proportion to the
25 amounts paid by them.

26 (c) The assessments imposed by subsection (b-5) of Section

1 5A-2 shall not take effect or shall cease to be imposed, the
2 Department's obligation to make payments shall immediately
3 cease, and any moneys remaining in the Fund shall be refunded
4 to hospital providers in proportion to the amounts paid by
5 them, if the payments to hospitals required under Section
6 5A-12.4 are not eligible for federal matching funds under Title
7 XIX of the Social Security Act.

8 (d) The assessments imposed by Section 5A-2 shall not take
9 effect or shall cease to be imposed, the Department's
10 obligation to make payments shall immediately cease, and any
11 moneys remaining in the Fund shall be refunded to hospital
12 providers in proportion to the amounts paid by them, if:

13 (1) for State fiscal years 2013 through 2018, the
14 Department reduces any payment rates to hospitals as in
15 effect on May 1, 2012, or alters any payment methodology as
16 in effect on May 1, 2012, that has the effect of reducing
17 payment rates to hospitals, except for any changes
18 affecting hospitals authorized in Public Act 97-689 and any
19 changes authorized by Section 14-12 of this Code, ~~and~~
20 except for any changes authorized under Section 5A-15, ~~and~~
21 except for any changes authorized under Section 5-5b.1, and
22 except for any changes authorized under the Unbalanced
23 Budget Response Act;

24 (2) for State fiscal years 2013 through 2018, the
25 Department reduces any supplemental payments made to
26 hospitals below the amounts paid for services provided in

1 State fiscal year 2011 as implemented by administrative
2 rules adopted and in effect on or prior to June 30, 2011,
3 except for any changes affecting hospitals authorized in
4 Public Act 97-689 and any changes authorized by Section
5 14-12 of this Code, ~~and~~ except for any changes authorized
6 under Section 5A-15, ~~and~~ except for any changes authorized
7 under Section 5-5b.1, and except for any changes authorized
8 under the Unbalanced Budget Response Act; or

9 (3) for State fiscal years 2015 through 2018, the
10 Department reduces the overall effective rate of
11 reimbursement to hospitals below the level authorized
12 under Section 14-12 of this Code, except for any changes
13 under Section 14-12 or Section 5A-15 of this Code, ~~and~~
14 except for any changes authorized under Section 5-5b.1, and
15 except for any changes authorized under the Unbalanced
16 Budget Response Act.

17 (Source: P.A. 98-463, eff. 8-16-13; 98-651, eff. 6-16-14; 99-2,
18 eff. 3-26-15.)

19 Section 115. The State Mandates Act is amended by adding
20 Section 8.40 as follows:

21 (30 ILCS 805/8.40 new)

22 Sec. 8.40. Exempt mandate. Notwithstanding Sections 6 and 8
23 of this Act, no reimbursement by the State is required for the
24 implementation of any mandate created by this amendatory Act of

1 the 99th General Assembly.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.